

# **RESTITUTION ACCORD**

## **MEMORANDUM OF UNDERSTANDING BETWEEN MONTANA DEPARTMENT OF REVENUE AND MONTANA DEPARTMENT OF CORRECTIONS**

### **PURPOSE:**

The purpose of this memorandum is to establish a cooperative agreement between the Department of Revenue (DOR), the Department of Corrections (DOC), and participating judicial districts, thereby authorizing the Department of Revenue to collect restitution from offenders assigned to the Department of Corrections.

This agreement will address the following:

<b>SECTION I:</b>	<b>LEGAL AUTHORITY</b>
<b>SECTION II:</b>	<b>COURT ORDERS</b>
<b>SECTION III:</b>	<b>RESPONSIBILITIES</b>
<b>SECTION IV:</b>	<b>COLLECTION FEES</b>
<b>SECTION V:</b>	<b>EVALUATION AND AUDIT</b>
<b>SECTION VI:</b>	<b>MODIFICATIONS, TERMINATION, AND ANNUAL REVIEW</b>
<b>SECTION VII:</b>	<b>DEPARTMENT COORDINATING OFFICERS</b>
<b>SECTION VIII:</b>	<b>PARTICIPATING JUDICIAL DISTRICTS</b>
<b>SECTION IX:</b>	<b>EFFECTIVE DATE</b>

### **SECTION I: LEGAL AUTHORITY**

The Judicial Districts of the State of Montana have the authority to order restitution from convicted offenders in accordance with MCA 46-18-241, 245 & 247. Department of Revenue has the authority to collect the restitution in accordance with MCA 17-4-101-111 & 46-18-247.

### **SECTION II: COURT ORDERS**

Offenders sentenced prior to the effective date of this agreement will be ordered to pay restitution in accordance with this agreement in compliance with a court order established by the court. Offenders sentenced after the effective date of this agreement will have as a part of their sentencing order, the responsibility to pay restitution in accordance with this agreement.

### SECTION III: RESPONSIBILITIES

DOR is responsible for the collection, reporting, and distribution of funds collected in support of this agreement. DOR will:

- Determine the payment arrangements
- Notify DOC of payment arrangements
- Notify victims of restitution schedule
- Remit payments to District Courts for distribution
- Notify Probation and Parole Officer of any changes in payment arrangements
- Quarterly provide reports electronically to DOC that can be arranged by:
  - Sentencing Judges
  - Probation and Parole Officer
  - Restitution paid and Delinquencies
- Provide input for intervention hearing
- Offset income tax return refunds and other warrants
- Seek a Writ of Execution
- Share offender information with DOC (i.e. address or phone number changes, job status)
- Develop a plan to publicize delinquent offenders
- Notify DOC of bankruptcy filings

DOC is responsible for supervising convicted offenders. DOC will:

- Electronically notify DOR of court order
- Report to Judges quarterly
- Electronically provide DOR with court minutes when new restitution cases are involved on a weekly basis
- Notify DOR of community service in lieu of payment
- Make specific recommendations to the Judge on order of payments to multiple victims owed restitution and notify DOR
- Conduct intervention hearings with input from DOR
- Notify DOR of any new charges pending
- Share offender information with DOR (i.e. address or phone number changes, job status)
- Notify DOR of bankruptcy filings

The Judges will:

- Order restitution be paid under this Accord
- Decide which victims are paid and in what order
- Order community service in lieu of restitution
- Direct the payment of restitution to the victims
- Order the payment for supervising the collection of the restitution

#### SECTION IV: COLLECTION FEES

The Department of Revenue will receive a collection fee in an amount to be set annually by the Department of Revenue and the Department of Corrections. The purpose of these collection fees is to cover the administrations costs associated with the program of the DOR. Offenders are to pay this fee in addition to any restitution ordered by the court.

The fee may be adjusted when:

- An offender pays a one-time lump sum restitution payment.
- On a case by case basis as determined by mutual agreement of DOC and DOR.

#### SECTION V: EVALUATION AND AUDIT

The Restitution Accord may be audited at the request of either agency. Prior to conducting the audit the requesting department will notify the other department when the audit will occur. If there are extenuating circumstances that prevent either party from notifying the other department in advance, the notification will occur as soon as practicable. Results of the audit will be provided to each Department Director prior to being released to any other agency or the public. It is the intent of this agreement to have an audit performed each biennium. The work performed by the Legislative Audit Division may be sufficient to fulfill this audit requirement.

#### SECTION VI: MODIFICATIONS, TERMINATION, AND ANNUAL REVIEW

This agreement will be reviewed annually by DOR and DOC. This agreement cannot be modified without the written consent of the Directors of the Department of Revenue and the Department of Corrections. Either Department wishing to terminate this agreement may do so with 90 days written notification and will be obligated to negotiate a termination plan that will facilitate a continuity of collection of restitution for crime victims. This agreement cannot be modified or terminated without prior written notification sent to Judges participating in the Restitution Accord.

#### SECTION VII: DEPARTMENT COORDINATING OFFICERS

Each department will have a Primary Coordinating Officer and at least one secondary (backup) person. The Coordinating Officers are the primary contact persons for the accord. The Coordinating Officers will implement, maintain, and resolve all issues associated with these accord. The Department of Revenue Coordinating Officers are:

Primary: Subprocess Lead  
Accounts Receivable & Collections  
Customer Service Center

Assistant (s): Marketing Team  
Accounts Receivable & Collections  
Customer Service Center

The Department of Corrections Coordinating Officers are:

Primary: Bureau Chief  
Probation and Parole

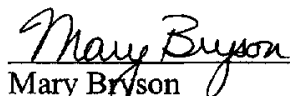
Assistant(s): Regional Administrators  
Probation and Parole

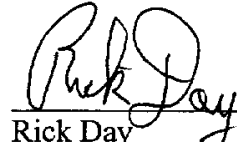
SECTION VIII: PARTICIPATING JUDICIAL DISTRICTS


The Judicial District Judges of Montana may enroll in this accord to order restitution be paid by offenders through the use of this Restitution Accord.

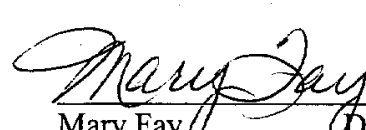
SECTION VIII: EFFECTIVE DATE

The effective date of this agreement will be the 1<sup>st</sup> of December, 1999.

 11/30/99  
Mary Bryson Date  
Director  
Department of Revenue

 11/30/99  
Rick Day Date  
Director  
Department of Corrections

 11/30/99  
Rochelle Stewart Date  
Coordinating Officer  
Department of Revenue


 11/30/99  
Mary Fay Date  
Coordinating Officer  
Department of Corrections

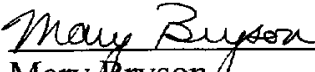
## Montana Restitution Accord Enrollment


Judge James E. Purcell, 2<sup>nd</sup> Judicial District, agrees to participate in the Montana Restitution Accord.

The Restitution Accord is a partnership between the Department of Revenue, the Department of Corrections and participating Judicial District Judges for the purpose of collecting restitution from convict offenders supervised by the Department of Corrections.

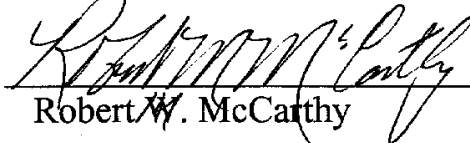
The effective date of this agreement enrollment is December 1, 1999

 11-30-99  
James E. Purcell Date


 11/30/99  
Mary Bryson Date  
Director  
Department of Revenue

 11/30/99  
Rick Day Date  
Director  
Department of Corrections

Robert W. McCarthy, Butte Silver Bow County Attorney acknowledges the participation of Judge James E Purcell's Court in the Restitution Accord.

 11/30/99  
Robert W. McCarthy Date

Lori Maloney, Butte Silver Bow County Clerk of Court acknowledges the participation of Judge James E Purcell's Court in the Restitution Accord.

 11/30/99  
Lori Maloney Date

## Montana Restitution Accord Enrollment

Judge John W. Whelan, 2<sup>nd</sup> Judicial District, agrees to participate in the Montana Restitution Accord.

The Restitution Accord is a partnership between the Department of Revenue, the Department of Corrections and participating Judicial District Judges for the purpose of collecting restitution from convict offenders supervised by the Department of Corrections.

The effective date of this agreement enrollment is December 1, 1999

John W. Whelan 11-30-99  
John W. Whelan Date

Mary Bryson 11/30/99  
Mary Bryson Date  
Director  
Department of Revenue

Rick Day 11/30/99  
Rick Day Date  
Director  
Department of Corrections

Robert W. McCarthy, Butte Silver Bow County Attorney acknowledges the participation of Judge John W. Whelan's Court in the Restitution Accord.

Robert W. McCarthy 11/30/99  
Robert W. McCarthy Date

Lori Maloney, Butte Silver Bow County Clerk of Court acknowledges the participation of Judge John W. Whelan's Court in the Restitution Accord.

Lori Maloney 11/30/99  
Lori Maloney Date